

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

RICHARD DEWAYNE HUNT,

Petitioner,

No. CIV S-05-0126 DFL GGH P

vs.

CLAUDE E. FINN, et al.,

Respondent.

ORDER

Petitioner, a state prisoner proceeding through counsel, has filed this application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local General Order No. 262.

On January 9, 2006, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within twenty days. Petitioner has filed objections to the findings and recommendations.<sup>1</sup>

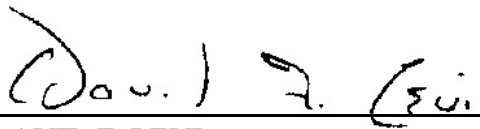
<sup>1</sup> In his objections, petitioner's counsel argues that he should be allowed to "amend" his petition to raise an actual innocence claim in order to overcome respondent's argument that this action is barred by the statute of limitations. Were respondent arguing that petitioner's claims were procedurally defaulted, a claim of actual innocence would be an appropriate argument for petitioner to raise. However, actual innocence is not a "defense" to claims that are barred by the statute of limitations. See Faith v. Clarke, CIV S-00-0493 DFL GGH P, order of Dec. 8, 2003, at

1 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 72-  
2 304, this court has conducted a de novo review of this case. Having carefully reviewed the entire  
3 file, the court finds the findings and recommendations to be supported by the record and by  
4 proper analysis.

5 Accordingly, IT IS HEREBY ORDERED that:

- 6 1. The findings and recommendations filed January 9, 2006, are adopted in full;  
7 and  
8 2. Respondent's June 10, 2005, motion to dismiss is granted.

9 DATED: 3/16/2006

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13 DAVID F. LEVI  
14 United States District Judge  
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